REMARKS

Applicants have amended the specification to correct typographical errors and provide references for items shown in Fig. 6. Claims 22-42 remain pending and under examination.

Applicants respectfully traverse the objection and rejections made in the Office Action, wherein the Examiner:

(1) objected to the drawings under 37 C.F.R. § 1.83(a);

(2) rejected claim 22[1] under 35 U.S.C. § 112, second paragraph, as being indefinite;

(3) rejected claims 22-27, 30-40, and 42 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent App. Pub. No. 2003/0086405 ("*Silva*"); and

(4) rejected claims 28, 29 and 41 under 35 U.S.C. § 103(a) as being unpatentable over *Silva* in view of U.S. Patent App. Pub. No. 2002/0145982 ("*Talpade*").

Objection to the Drawings:

The Office Action objected to the drawings and asserted that FIGS. 1-6 "fail to show labels as described in the specification." Office Action, page 3. In response, and without conceding to the Office Action's assertions, Applicants submit six (6) sheets of Replacement Drawing Sheets, corresponding to Figs. 1-6. The replacement drawings fully comply with 37 C.F.R. § 1.121(d) and Applicants respectfully request withdrawal of the objection.

Rejection of Claim 22 under 35 U.S.C. § 112, Second Paragraph:

The Office Action rejected claim 22 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. *See* Office Action, page 4. The Office Action alleged that "the term

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[1] In the Office Action, the Examiner mistakenly rejected claim 1. However, claim 1 had been cancelled. From the context, Applicants understand that the correct claim number should be 22.

'activating said user blocks in succession until said total number of users to be simulated is reached' is unclear." *Id.* According to the Office Action, "it is not clear what is meant by the term 'until total number of users to be simulated is reached' and the specification does not clarify this limitation." *Id.* Applicants respectfully disagree.

Contrary to the Office Action's allegation, the above-quoted feature is clearly described in the specification. For example, the total number of users: $N_{UEToT}(s)$ is defined at page 42, line 4. Also, for example, the step of "checking the attainment of a total number of users to be activated" is discussed in the paragraph beginning from page 40, line 5, and illustrated in Fig. 5, item 115. Moreover, the executions after the checking step 115 are discussed, for example, in the paragraph beginning from page 40, line 15, and illustrated in Fig. 5. Specifically, if the total number of users to be simulated is not reached, the "simulation engine 10 causes the execution of the first step 103, which activate one or more mobile terminals in sequence ...." Specification, page 40, lines 17-19. If, however, the total number of users to be simulated is reached, "the simulation engine 10 causes the execution of: a step of checking the accuracy of the statistical data obtained, 116." Specification, page 40, lines 24-27. Therefore, these features are clearly defined in the specification, and claim 22 fully complies with 35 U.S.C. § 112, second paragraph. Accordingly, Applicants respectfully request withdrawal of the rejection.

Rejection of Claims 22-27, 30-40, and 42 under 35 U.S.C. § 102(b):

Applicants request reconsideration and withdrawal of the rejection of claims 22-27, 30-40, and 42 under 35 U.S.C. § 102(b) as being anticipated by *Silva*.

In order to establish anticipation under 35 U.S.C. § 102, the Office Action must show that each and every element as set forth in the claim is found, either expressly or inherently described, in *Silva*. *See* M.P.E.P. § 2131. *Silva*, however, does not disclose each and every element of Applicants' claims. Specifically, *Silva* does not disclose or suggest at least Applicants' claimed

"activating said user blocks in succession until said total number of users to be simulated is reached, each user block indicating a traffic distribution," as recited in claim 22 (and similarly in claim 36).

The Office Action alleged that Fig. 13, references 1308 and 1310; Fig. 18A, reference 1810; and paragraphs [0152] and [0189] of *Silva* disclose the this feature. *See* Office Action, page 6. This is incorrect.

For example, *Silva* discloses a power bounding process in paragraphs [0151-0162] and Fig. 13. Specifically, *Silva*'s method compares "full rate power calculated for each subscriber" with a maximum threshold and a minimum threshold. *See Silva*, paragraphs [0151-0152]. If the calculated power is above (below) the maximum (minimum) threshold, the calculated power is reduced (increased) to the maximum (minimum) threshold value. *See Id.* In other words, the calculated power is "bounded" to the region defined by the maximum and minimum thresholds. However, the power bounding process described by *Silva* has nothing to do with "activating said user blocks in succession until said total number of users to be simulated is reached, each user block indicating a traffic distribution," as recited in claim 22, at least because *Silva* does not disclose "user blocks ... indicating traffic distribution[s]."

Moreover, Fig. 18A and paragraph [0189] of *Silva* do not disclose the above-quoted claim element. For example, Figs. 18A-B and paragraphs [0185-0189] of *Silva* disclose a process of forward power management. Specifically, a CDMA planner "checks for each subscriber ... whether the <u>forward call block threshold</u> has been reached (step 1810). If so, the CDMA planner sets ... powers to zero (step 1812). If [not] ..., the CDMA planner reduces ... data rate ... and re-computes the associated power ...." *Silva*, paragraph [0189] (emphasis added). That is, the threshold to be checked against in *Silva* is a "forward call block threshold." This is clearly different from Applicants' claimed "total number of users to be simulated." The

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process of managing forward power is also clearly different from Applicants' claimed "activating said user blocks in succession until said total number of users to be simulated is reached, each user block indicating a traffic distribution," as recited in claim 22 (and similarly in claim 36).

Since *Silva* does not disclose each and every element of independent claims 22 and 36, *Silva* does not anticipate Applicants' independent claims 22 and 36 under 35 U.S.C. § 102(b). Therefore, independent claims 22 and 36 should be allowable over *Silva*. In addition, dependent claims 23-27, 30-35, 37-40, and 42 should be allowable at least by virtue of their respective dependence from base claim 22 or 36, and because they recite additional features not disclosed in *Silva*. Accordingly, Applicants respectfully request withdrawal of the rejection.

Rejection of Claims 28, 29 and 41 under 35 U.S.C. § 103(a):

Applicants request reconsideration and withdrawn of the rejection of claims 28, 29 and 41 under 35 U.S.C. § 103(a) as being unpatentable over *Silva* in view of *Talpade*.

The Office Action has not properly resolved the *Graham* factual inquiries, as required to establish a framework for an objective obviousness analysis. *See* M.P.E.P. § 2141(II), citing to *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), as reiterated by the U.S. Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 82 USPQ2d 1385 (2007). In particular, the Office Action has not properly ascertained the differences between the claimed invention and the prior art, at least because the Office Action has not interpreted the prior art and considered *both* the invention *and* the prior art *as a whole*. *See* M.P.E.P. § 2141(II)(B).

As explained above, Applicants have established that *Silva* does not disclose or suggest at least Applicants' claimed "activating said user blocks in succession until said total number of users to be simulated is reached, each user block indicating a traffic distribution," as recited in claim 22 (and similarly in claim 36).

Talpade does not cure the deficiencies of *Silva*. For example, *Talpade* discloses a method for identifying the classes of traffic to be transported in the network characterized by their respective QoS criteria. *See Talpade*, paragraphs [0006-0007]. The QoS criteria may be characterized by "one or more of packet loss, one-way time delay, packet jitter, loss distribution, or other similar factors." *Talpade*, paragraph [0008]. However, *Talpade* also does not disclose or suggest at least Applicants' claimed "activating said user blocks in succession until said total number of users to be simulated is reached, each user block indicating a traffic distribution," as recited in claim 22 (and similarly in claim 36).

Therefore, *Silva* and *Talpade*, taken either alone or in combination, fail to teach or suggest at least the above-quoted recitations of Applicants' claims 22 and 36. Thus, the Office Action has not properly ascertained the differences between the prior art and the claimed invention. Independent claims 22 and 36 should therefore be allowable over *Silva* and *Talpade*. Therefore, dependent claims 28, 29 and 41 should be allowable at least by virtue of their respective dependence from base claim 22 or 36, and because they recite additional features not taught or suggested in *Silva* and *Talpade*. Accordingly, Applicants respectfully request withdrawal of the rejection.

Conclusion:

Applicants request reconsideration of the application and withdrawal of the rejections. Pending claims 22-42 are in condition for allowance, and Applicants request a favorable action.

The Office Action contains a number of statements reflecting characterizations of the cited art and related claims. Regardless of whether any such statements are identified herein, Applicants decline to automatically subscribe to any such statements or characterizations in the Office Action.

If there are any remaining issues or misunderstandings, Applicants request the Examiner telephone the undersigned representative to discuss them.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

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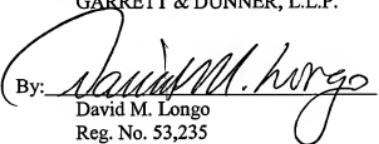
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